

ARTICLE 52

AMEND ZONING BYLAW- TECHNICAL CORRECTIONS

To see if the Town will vote to amend Chapter 135 of the Code of the Town of Lexington by correcting improperly alphabetized definitions, making internal references consistent, supplying missing definitions, correcting typographical errors and making other non-substantive corrections that will clarify the bylaw; or act in any other manner in relation thereto.

MOTION: That the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, be amended as follows:

Reference		
Section 135-3.4 Table of Uses, D. Temporary Uses	Proposed	In Line D of Table 1 insert “(see section 3.3)” so the line reads as follows: D. TEMPORARY USES (see section 3.3)
	Comments	This will refer the user to the section which expands on the types of temporary use
Section 135-3.4 Table of Uses, D.1.03	Proposed	In Line D.1.03 of Table 1 inset “for a maximum of three months” after “district” so it reads as follows: Temporary structures and uses not otherwise permitted in the district, for a maximum of three months, provided the Building Commissioner finds that the proposed structure or use is compatible with the neighborhood
	Comments	This differentiates line D.1.03 from line D.1.04 which would otherwise appear to be the same use. This clarifies the purpose of the two lines, temporary uses of three months or less may occur with a finding of the Building Commissioner while temporary uses of greater than three months, to a maximum of two years (as detailed in 3.3), are by special permit.
Section 135- 6.7.8	Proposed	In Section 6.7.8 Accessory Structure Apartment insert the word “lot” in the first sentence so it reads as follows: 6.7.8 Accessory Structure Apartment. Notwithstanding the prohibition against having more than one dwelling on a lot, the SPGA may grant a special permit to allow the construction of an accessory apartment in an existing accessory structure which is on the same lot as an existing one-family dwelling provided:
	Comments	The word “lot” was left out of this sentence.

Section 135-8.7	Proposed	Change the numbering in section 8.7 to correspond to the outline of the section prior to the reorganization of the bylaw, and change the title of what is now “8.7.7 Casualty to Building.” No changes are made in the body, only in the one title and numbering. What are now sections 8.7.2 to 8.7.6 will become subsections 1 to 5 of section 8.7.1 and section 8.7.7 will become section 8.7.2 and be retitled “Reconstruction or Replacement of a Building”
	Comments	This restores a heading which was changed in the rewrite of the Zoning Bylaw. This is not actually a change in the ZBL since per section 1.1.2 “Headings, subheadings and captions are for reference only and are not substantive provisions of this bylaw. They are not legally adopted parts of this bylaw as voted by Town Meeting.” The changes in the numbering reflect the nature of the paragraphs as subsections of 8.7.1, not as paragraphs of equal significance. See the appendix to this motion to see section 8.7 as is currently written and with the proposed changes.
Section 135-10.0 Definitions	Proposed	In Section 10 Definitions, insert the following definition of “Center storefront” after the definition of “Cellar” and before the definition of “Certificate of occupancy”: Center Storefront: the portion of the ground floor level of a building in the CB District that has frontage on a public way or a public parking lot.
	Comments	This definition had been in the Table of Uses and was to be moved to the definition section with the rewrite of the bylaw but was inadvertently left out.
Section 135-10.1 Definitions	Proposed	In Section 10 Definitions, “Repeater,” remove the apostrophe after watt so that the definition now reads as follows: Repeater: A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage from the primary sending and receiving site in a wireless communication network.
	Comments	Removes an apostrophe which is consistent with common usage.
Section 135-10.1 Definitions	Proposed	In Section 10 Definitions, insert “solar panels” after “tanks” in the definition of “Structure” so that it reads as follows: Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or attachment to something located on the ground, including buildings, mobile homes, billboards, tanks, solar panels, or the like, or the parts thereof, and swimming pools, but not including paved surfaces such as a driveway, a walk or a patio.
	Comments	Clarifies that solar panels are a structure which was always the intention of the Bylaw when the use was added to the Table of Uses.

APPENDIX

8.7 NONCONFORMING OFF-STREET PARKING AND LOADING

8.7.1 Existing Nonconforming Parking Spaces or Loading Bays. Any off-street parking spaces or loading bays in existence on the effective date of this bylaw or thereafter established, which serve a building or use, may not be reduced in number, or changed in location or design contrary to the requirements of § 5.1 so as to increase the degree of nonconformity with the requirements of § 5.1.

8.7.2 Change of Use. A use of an existing structure or lot which does not have sufficient parking or loading, including a use which has no off-street parking or loading, may be expanded or changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in § 5.1.4 only if the net increase in the number of required parking spaces or loading bays is provided in conformity with § 5.1.

8.7.3 Increase in Floor Area. If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading bays, full compliance with § 5.1 for the entire building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.

8.7.4 Parking Spaces or Loading Bays in Existence. Parking spaces or loading bays lawfully in existence which serve existing uses, are no longer required for those uses under § 5.1, and comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.

8.7.5 Parking Spaces or Loading Bays in Existence. Existing parking spaces or loading bays that comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, that are no longer required for existing uses under § 5.1, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.

8.7.6 Credit. An applicant seeking credit for existing parking spaces or loading bays shall first submit an off-street parking and loading plan, as provided in § 5.1.3, certified by a registered land surveyor or professional engineer. If the existing paved area is not marked off into parking spaces or loading bays, such spaces or bays, complying with § 5.1.13 shall be delineated on the plan. To qualify, an existing parking space or loading bay shall be entirely on the lot.

8.7.7 Casualty to Building.

1. If a building, for which sufficient off-street parking or loading is not provided, is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced if otherwise permitted by this bylaw, without providing additional parking spaces or loading bays provided the new building has the same or less net floor area and the new uses require the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage or demolition, at least the same number of spaces or bays shall be provided.
2. If the uses require a greater number of parking spaces or loading bays, or if more net floor area is to be constructed than previously existed, full compliance with § 5.1 for the entire building shall be a condition of the issuance of any building permit for the reconstruction or replacement of the building.

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1. Change of Use. A use of an existing structure or lot which does not have sufficient parking or loading, including a use which has no off-street parking or loading, may be expanded or changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in § 5.1.4 only if the net increase in the number of required parking spaces or loading bays is provided in conformity with § 5.1.
2. Increase in Floor Area. If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading bays, full compliance with § 5.1 for the entire building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.
3. Parking Spaces or Loading Bays in Existence. Parking spaces or loading bays lawfully in existence which serve existing uses, are no longer required for those uses under § 5.1, and comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.
4. Parking Spaces or Loading Bays in Existence. Existing parking spaces or loading bays that comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, that are no longer required for existing uses under § 5.1, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.
5. Credit. An applicant seeking credit for existing parking spaces or loading bays shall first submit an off-street parking and loading plan, as provided in § 5.1.3, certified by a registered land surveyor or professional engineer. If the existing paved area is not marked off into parking spaces or loading bays, such spaces or bays, complying with § 5.1.13 shall be delineated on the plan. To qualify, an existing parking space or loading bay shall be entirely on the lot.

8.7.2 Reconstruction or Replacement of a Building.

1. If a building, for which sufficient off-street parking or loading is not provided, is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced if otherwise permitted by this bylaw, without providing additional parking spaces or loading bays provided the new building has the same or less net floor area and the new uses require the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage or demolition, at least the same number of spaces or bays shall be provided.
2. If the uses require a greater number of parking spaces or loading bays, or if more net floor area is to be constructed than previously existed, full compliance with § 5.1 for the entire building shall be a condition of the issuance of any building permit for the reconstruction or replacement of the building.